

**COUNCIL MEETING NOTICE AND AGENDA  
WEDNESDAY, APRIL 22, 2015  
8:45 A.M. OR SOON THEREAFTER**

COUNCIL CHAMBERS  
HISTORIC COUNTY BUILDING  
4396 RICE STREET, SUITE 201  
LIHU'E, KAUAI, HAWAII 96766

RECEIVED

A. MEETING CALLED TO ORDER.

'15 APR 16 P12:45

B. ROLL CALL.

C. APPROVAL OF AGENDA.

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

D. INTERVIEWS:

1. FIRE COMMISSION:

- Thomas M. Nizo – Term ending 12/31/2015

2. BOARD OF ETHICS:

- Addison C. Bulosan – Term ending 12/31/2015

3. POLICE COMMISSION:

- Gerald Bahouth – Term ending 12/31/2016

E. MINUTES of the following meetings of the Council:

1. March 11, 2015 Special Council Meeting
2. March 11, 2015 Council Meeting
3. March 25, 2015 Special Council Meeting
4. April 1, 2015 Special Council Meeting

F. CONSENT CALENDAR:

1. C 2015-120      Communication (04/02/2015) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointees to the various Boards and Commissions for the County of Kauai:

1. Board of Ethics

- Addison C. Bulosan – Term ending 12/31/2015

2. Fire Commission

- Thomas M. Nizo – Term ending 12/31/2015

*(See Resolution No. 2015-38 and Resolution No. 2015-39)*

2. C 2015-121      Communication (04/07/2015) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointees to the various Boards and Commissions for the County of Kauaʻi:
1. Civil Service Commission
    - Jeffrey S. Iida – Term ending 12/31/2017
  2. Police Commission
    - Gerald Bahouth – Term ending 12/31/2016
- (See Resolution No. 2015-40 and Resolution No. 2015-41)**
3. C 2015-122      Communication (04/07/2015) from the Director of Human Resources, transmitting for Council information, the January-March 2015 Quarterly Report, pursuant to Section 19 of Ordinance No. B-2014-781, relating to the Operating Budget of the County of Kauaʻi for the Fiscal Year 2014-2015, which includes new hires, transfers, reallocations, promotions, and vacancies for the third quarter.
4. C 2015-133      Communication (04/14/2015) from the Director of Planning, transmitting the Planning Commission's recommendation to amend Chapter 8, Kauaʻi County Code 1987, as amended, to identify an enforceable homestay definition and processing parameters under which homestay operations can be permitted with a Use Permit. *(Copies of the Draft Ordinance for Zoning Amendment (ZA-2015-4), Director's Report, Agency Comments, and the Minutes of the February 24, 2015 and April 15, 2015 Planning Commission Meetings, on file in the County Clerk's Office.) (See Proposed Draft Bill (No. 2587))*

#### G. COMMUNICATIONS:

1. C 2015-123      Communication (03/24/2015) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal Highway Safety funds from the State of Hawaiʻi Department of Transportation in the amount of \$162,529, to be used towards continuing the funding of 1.00 full-time equivalent (FTE) Special Prosecuting Attorney, travel, and training.
2. C 2015-124      Communication (03/24/2015) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend grant funding from the Department of Justice, Office on Violence Against Women in the amount of \$590,204, to be used towards funding 1.00 full-time equivalent (FTE) Special Prosecuting Attorney, 1.00 FTE Legal Clerk, fringe benefits, travel, equipment, and training, which will be used to contract with the YWCA of Kauaʻi for the Sexual Assault Treatment Program the grant period is for three (3) years (October 1, 2015 to September 30, 2018).

3. C 2015-125      Communication (03/27/2015) from the County Engineer, requesting Council approval of the proposed Fiscal Year 2015 Island Wide Road Resurfacing List.
4. C 2015-126      Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$135,525 for Special Counsel's final billing for services rendered for Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.
5. C 2015-127      Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$130,189 for Special Counsel's final billing for services rendered for Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.
6. C 2015-128      Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$56,480 for Special Counsel's final billing for services rendered for Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.
7. C 2015-129      Communication (04/14/2015) from the Deputy County Clerk, notifying the Council of an incorrectly posted agenda item (C 2015-40, January 14, 2015 Council Meeting) and subsequently requesting Council approval, on behalf of the Housing Agency for the following:
  1. Fee simple acquisition from the owners of the residential unit situated at 3920 Haoa Street, #123, Lihu'e, for not more than \$197,950;
  2. Fee simple resale of the residential unit situated at 3920 Haoa Street, #123, Lihu'e, for not more than \$197,950, to a participant who is on the County's Affordable Housing Program waitlist whose household income does not exceed 140% of the Kaua'i Median Household Income (KMHI); and
  3. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

H. LEGAL DOCUMENT:

1. C 2015-130      Communication (04/03/2015) from the County Engineer, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the State of Hawai'i, Agribusiness Development Corporation (ADC), for access in and to the Cane Haul Road located on property in Kekaha, Kaua'i, TMKs: (4) 1-2-002-001 (por.) and (4) 1-2-002-025 (por.), to conduct a survey of birds ("Bird Survey") in and around the Kekaha Landfill in connection with the environmental assessment for the construction and operation of a landfill in Kalepa, Kaua'i, TMK: (4) 03-009-002 (por.), and to indemnify the ADC and the Kekaha Agriculture Association (KAA), who by license from the State of Hawai'i is responsible for operation and maintenance of those certain lands.

- Right-of-Entry Agreement

I. CLAIMS:

1. C 2015-131      Communication (04/02/2015) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Enterprise Holding Inc., Damage Recovery Unit (DRU), for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2015-132      Communication (04/09/2015) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Charlene Andrade, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

J. COMMITTEE REPORTS:1. HOUSING & TRANSPORTATION COMMITTEE:

- a. **CR-HT 2015-04:** on Bill No. 2580      A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES [Approved.]

2. PLANNING COMMITTEE:

- a. **CR-PL 2015-08:** on Bill No. 2577      A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-31-79, AND ORDINANCE NO. PM-2009-391 RELATING TO ZONING DESIGNATION IN PO'IPU, KAUAI (John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants) [Approved.]

**b. CR-PL 2015-09: on Bill No. 2578**

A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-2001-354, RELATING TO ZONING DESIGNATION IN PO'IPŪ, KAUA'I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*) **[Approved.]**

**3. BUDGET & FINANCE COMMITTEE:****a. CR-BF 2015-16: on BF 2015-01**

Communication (03/12/2015) from the Director of Planning, transmitting for Council information, the Six-Year Capital Improvement Projects (CIP) Program Fiscal Year 2015/2016 - 2020/2021 Final Report, as recommended by the Planning Commission. **[Received for the Record.]**

**K. RESOLUTIONS:**

1. Resolution No. 2015-38 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Addison C. Bulosan*)

2. Resolution No. 2015-39 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO FIRE COMMISSION (*Thomas M. Nizo*)

3. Resolution No. 2015-40 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO CIVIL SERVICE COMMISSION (*Jeffrey S. Iida*)

4. Resolution No. 2015-41 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO POLICE COMMISSION (*Gerald Bahouth*)

**L. BILL FOR FIRST READING:**

1. Proposed Draft Bill (No. 2587) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

M. BILLS FOR SECOND READING:

1. Bill No. 2577 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-31-79, AND ORDINANCE NO. PM-2009-391 RELATING TO ZONING DESIGNATION IN PO‘IPU, KAUA‘I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*) (See also CR-PL 2015-08; the Planning Committee recommended approval on second and final reading.)

2. Bill No. 2578 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-2001-354, RELATING TO ZONING DESIGNATION IN PO‘IPU, KAUA‘I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*) (See also CR-PL 2015-09; the Planning Committee recommended approval on second and final reading.)

3. Bill No. 2580 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES (See also CR-HT 2015-04; the Housing and Transportation Committee recommended approval on second and final reading.)

N. EXECUTIVE SESSION: Pursuant to Hawai‘i Revised Statutes (HRS) §92-7(a), the Council may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (Confidential reports on file in the County Attorney’s Office and/or the County Clerk’s Office. Discussions held in Executive Session are closed to the public.)

1. ES-788 Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua‘i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant County of Kaua‘i in Tim Bynum vs. County of Kaua‘i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
2. ES-789 Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua‘i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua‘i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

3. ES-790 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing and request authority for settlement as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
4. ES-791 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
5. ES-792 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding 1) the fact finding/investigation on three parcels of real property, Tax Map Keys (4) 3-3-018-002, (4) 3-8-004-001 and (4) 3-7-001-001, concerning each parcel's compliance with the Agricultural Dedication Ordinance and the Sediment and Erosion Control Ordinance (Grubbing, Grading and Stockpiling) and related matters and 2) the process for an investigation pursuant to Section 3.17 of the Charter of the County of Kaua'i and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.
6. ES-793 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding Puhi Metals Recycling Center issues and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

#### O. ADJOURNMENT.

- P. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

*[\*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

**For a copy of the notice, please go to:**

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. Bill No. 2584 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Re-instate Credit Union Exemption*)
2. Bill No. 2585 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND

Q. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LĪHUʻE, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

\*TO VIEW MEETINGS, MEETING ARCHIVES, OR TO DOWNLOAD/ACCESS AGENDA ATTACHMENTS, PLEASE VISIT: [WWW.KAUAI.GOV/WEBCASTMEETINGS](http://WWW.KAUAI.GOV/WEBCASTMEETINGS).